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EXAMINER

WINTER, JOHN M

ART UNIT PAPER NUMBER

3621

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/682,701

Applicant(s)

JANDASEK ET AL.

Examiner

John M. Winter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/3/2002.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### **STATUS**

Claims 1-16, and 19-23 are pending.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### ***Response to Arguments***

The Applicants arguments filed on August 8, 2005 have been fully considered.

The Applicant states that the claims of the present invention are directed towards a different purpose and are not obvious in view of the prior art.

Examiner responds that as per *Ex parte Clapp*, 227 USPQ 972 (Bd Pat App & Int) "To support conclusion that claimed combination is directed to obvious subject matter, the references must either expressly or impliedly suggest claimed combination or the examiner must present a convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of the references teachings." the Examiner states the reference deals with the generalized problem of estimating cost and therefore would be obvious to a person of ordinary skill in the art.

In response to Applicant's argument that the cited prior art references do not make reference to supply-chain based cost estimating, the examiner responds that in Figure 2 of the Evans reference item 26 shows that one of the factors taken into account is the cost of materials, the examiner concludes that the purchasing of materials constitutes utilizing a supply chain. See following rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (US Patent 6,775,647) in view of Foley (US Patent 5,249,120).

As per claim 1

Evans et al ('647) discloses a system for generating a cost estimate, the system configured to:

output a first value chain for the at least one item by the item's constituent component(s) and supply tier wherein the value chain includes an image and burden information for the at least one item and each of its constituent components. (Figure 16, Column 7, lines 19-29 [a cost model for the component is constructed, it includes the price of each part] )

Evans does not explicitly disclose "receive input specifying at least one item to add to a cost estimate wherein a burden associated with the at least one item is automatically added to the cost estimate" Foley discloses "receive input specifying at least one item to add to a cost estimate wherein a burden associated with the at least one item is automatically added to the cost estimate" (Figure 1; Column 7, lines 5-17, [the user can change parameters in the database which includes adding items ])

Claims 12 and 19 are in parallel with claim 1 and are rejected for the same reasons.

As per claim 2,

Evans et al ('647) discloses the system of claim 1 additionally configured to output an embedded value chain associated with an item displayed in the first value chain wherein the embedded value chain is illustrated by supplier tier and includes an image and burden information for at least one item within the embedded value chain.(Column 2, lines 8-14; Figure 2)

Claim 13 is in parallel with claim 2 and is rejected for at least the same reasons.

As per claim 3,

Evans et al ('647) discloses the system of claim 1 additionally configured to expand and decrease a level of detail for the burden information associated with the at least one item. (Figure 12)

Claim 14 is in parallel with claim 3 and is rejected for at least the same reasons.

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As per claim 4

Evans et al ('647) discloses the system of claim 1 wherein the burden information associated with the at least one item includes design cost information. (Column 5, lines 19-30)

As per claim 5

Evans et al ('647) discloses the system of claim 1 wherein the burden information associated with the at least one item includes controls cost information. (Column 5, lines 19-30)

As per claim 6,

Evans et al ('647) discloses the system of claim 1 additionally configured to receive input defining a labor rate structure used in calculating burden information for the cost estimate. (Figure 21)

As per claim 7

Evans et al ('647) discloses the system of claim 1 additionally configured to output the cost estimate in a format similar to a supplier's cost estimate format. (Figure 21)

Claims 16 and 20 are in parallel with claim 7 and are rejected for at least the same reasons.

As per claim 8

Evans et al ('647) discloses the system of claim 1 wherein the cost burdens associated with the items included in the cost estimate and value chain are populated based on a database of cost burdens. (Column 4, lines 34-37)

As per claim 9

Evans et al ('647) discloses the system of claim 8 wherein the cost burdens maintained within the database are globally updated based on an index value which reflects fluctuations in market pricing for items included in the database. (Column 4, lines 53-56)

As per claim 10

Evans et al ('647) discloses the system of claim 9 wherein the index is calculated based on price fluctuations experienced in a subset of items generally representative of other items maintained in the database. (Column 4, lines 53-56)

Claims 15 and 23 are in parallel with claim 10 and are rejected for at least the same reasons.

As per claim 11

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Evans et al ('647) discloses the system of claim 8 wherein the database of cost burdens include negotiated, best-in-class and off-the-shelf costs for at least one item. (Column 4, lines 22-33)

As per claim 21,  
Evans et al ('647) discloses the system of claim 21.  
additionally comprising a means for reducing and expanding a scope for the value chain.  
(Figure 12)

As per claim 22  
Evans et al ('647) discloses the system of claim 19 additionally comprising:  
a means for outputting a plurality of burdens associated with the at least one item; and a  
means for expanding and reducing a level of detail in which the plurality of burdens are output.  
(Figure 12)

### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to John Winter whose telephone number is (571) 272-6713. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at (571) 272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

or faxed to:

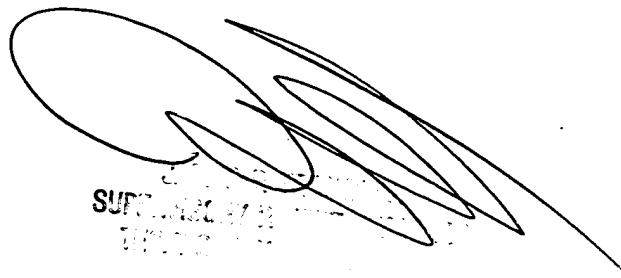
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(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]

Hand delivered responses should be brought to the Examiner in the Knox Building, 50 Dulany St. Alexandria, VA.

JMW

October 17, 2005

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a rectangular stamp. The stamp contains the word "SUPPLEMENTAL" in a bold, sans-serif font, with some smaller, less legible text below it.